

SUMMARY OF EXAMINER INTERVIEW

Applicants thank Examiner Adi Amrany for being available for, and participating in, a telephonic interview that occurred on November 6, 2008, in which the Applicants' representative discussed the differences between the claimed invention, as amended, and the references cited (U.S. Patent No. 6,184,593 to Jungreis, U.S. Patent No. 6,541,940 to Jungreis, and U.S. Patent No. 6,902,837 to McCluskey) in support of the 35 U.S.C. § 103(a) rejection of independent claim 6. Specifically, the Applicants' representative brought to the attention of the Examiner that the inventive aspects of the present invention, including the aspects of a "modular container" and a "sensing/control mechanism" for implementing a particular logic scheme, are not taught by the combination of cited references. During the discussion, the Applicants' representative addressed the importance of the hierarchy of power laid out by the logic scheme of the sensing/control mechanism and, in particular, which sources of power are being used and under which conditions the sources of power are being called into service. Examiner Amrany indicated the amended claim language may help clarify the distinction between the claimed invention and the cited references.

REMARKS

The Non-Final Office Action mailed August 15, 2008, has been received and reviewed. Prior to the present communication, claims 6-11 were pending in the subject application. All claims stand rejected under 35 U.S.C. § 103(a). Each of claims 6, 7, and 9-11 has been amended herein, while claims 21 and 22 have been added. As such, claims 1-11, 21, and 22 remain pending. It is submitted that no new matter has been added by way of the present amendments. Reconsideration of the subject application is respectfully requested in view of the above amendments and the following remarks.

Support for Claim Amendments

Independent claim 6 has been amended herein to recite a clarification of the power supply system for providing reliable electrical power to a telecommunications facility. In particular, this clarification includes "a modular container" for enclosing the plurality of individual rectifier/super capacitor devices pre-wired in parallel, the AC source, the DC source, and the first switching mechanism preassembled with sensing/control mechanism. Accordingly, the modular container is capable of being transported to the telecommunications facility and coupled with the telecommunications equipment contained therein. Support for this claim amendment may be found in the Specification, for example, at pg. 13, ¶ [0039] and at FIG. 3.

In general, amendments to the claimed subject matter is not "new matter" within meaning of 35 U.S.C. § 132 or Rule 118 of Patent Office Rules of Practice, unless it discloses an invention, process, or apparatus not theretofore described. Further, if later-submitted material simply clarifies or completes prior disclosure it cannot be treated as "new matter."¹ Accordingly, because these amendments are explicitly discussed, and inherent to, the procedure of providing

reliable electrical power to a telecommunications facility, as memorialized in the Detailed Description, the newly recited subject matter does not constitute new matter. These amendments reciting the process of composing and the process of decomposing are encompassed by the Specification and, accordingly, do not constitute new matter.

Claim Objections

Claim 11 stands objected to for reciting that the AC Power Source is a commercial electric utility when claim 6 defines the AC Power Source as a microturbine generator. In response, both claims 6 and 11 are amended such that the AC Power Sources “comprises” the microturbine generator (in the embodiment of claim 6) and “comprises” the commercial electric utility (in the embodiment of claim 11). Accordingly, withdrawal of the objection to claim 11 is respectfully requested.

35 U.S.C. § 103 Obviousness Rejections based on U.S. Patent No. 6,184,593 to Jungreis in view of U.S. Patent No. 6,541,940 to Jungreis, U.S. Patent No. 5,737,202 to Shimamori, and U.S. Patent No. 6,902,837 to McCluskey

Claims 6 and 11 stand rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 6,184,593 to Jungreis (hereinafter the Jungreis ‘593 reference) in view of U.S. Patent No. 6,541,940 to Jungreis (hereinafter the Jungreis ‘940 reference), U.S. Patent No. 5,737,202 to Shimamori (hereinafter the “Shimamori reference”) and U.S. Patent No. 6,902,837 to McCluskey (hereinafter the “McCluskey reference”). As the cited references, whether taken alone or in combination, fail to teach or suggest all of the limitations of the rejected claims, Applicants respectfully traverse this rejection, as hereinafter set forth.

¹ *Triax Co. v Hartman Metal Fabricators, Inc.*, 479 F2d 951 (1973, CA2 NY); cert. denied, 94 S. Ct. 843 (1973).

Independent claim 6, as amended herein, recites a system that includes “a modular container for enclosing the plurality of individual rectifier/super capacitor devices pre-wired in parallel, the AC source, the DC source, and the first switching mechanism preassembled with sensing/control mechanism, wherein the modular container is capable of being transported to the telecommunications facility and coupled with the telecommunications equipment contained therein.” The Examiner cites to col. 1, lines 45-59, of the Jungreis ‘940 reference for disclosing a telecommunications facility. However, the cited portion of this reference does not explicitly or inherently disclose a system for providing power to a telecommunications facility. Further, the Examiner utilizes *In re Lindberg*, 93 USPA 23 (CCPA 1952) to overcome the collection of components into a single unit. However, the module container creates results that are new to the telecommunications industry and provide space-saving advantages.

Accordingly, it is respectfully submitted that the cited references, whether taken alone or in combination, fail to teach or suggest all of the limitations of the claim 6 and, accordingly, of claim 11 and new claims 21 and 22.² As such, these claims are believed to be in condition for allowance at least by virtue of their dependency and withdrawal of the obviousness rejection is respectfully requested.

Claims 21 and 22 have been added by way of the present communication. It is respectfully submitted that each of these claims is supported by the as-filed specification and that no new matter has been added by way of these claim additions.

With reference to claim 21, the system includes a sensing/control mechanism that “initially activate and selectively couple the one or more proton exchange membrane fuel cell

² See 37 C.F.R. § 1.75(c) (2006).

modules to the telecommunication equipment, thereby acting as a primary source of power, and to temporarily, selectively couple the at least one microturbine generator to the telecommunication equipment in concurrence with the activation of the one or more proton exchange membrane fuel cell modules until an output thereof rises to a predefined level.” The McCluskey reference discloses control means, but does not include the exact logical steps of the new claim 21. The balance of the references are not cited for describing logical steps implemented by a sensing/control mechanism. Accordingly, it is respectfully submitted that the cited references, whether taken alone or in combination, fail to teach or suggest all of the limitations of the claim 6.

With reference to claim 22, the system includes a sensing/control mechanism that is “configured to initially selectively couple the at least one microturbine generator to the telecommunication equipment, via the plurality of individual rectifier/super capacitor devices pre-wired in parallel, to secondly selectively couple the commercial electric utility to the telecommunication equipment, via the plurality of individual rectifier/super capacitor devices pre-wired in parallel, upon sensing a disruption from the at least one microturbine generator, and to thirdly selectively couple the one or more proton exchange membrane fuel cell modules to the telecommunication equipment directly upon sensing a disruption from the commercial electric utility.” The McCluskey reference discloses control means, but does not include the exact logical steps of the new claim 22. The balance of the references are not cited for describing logical steps implemented by a sensing/control mechanism. Accordingly, it is respectfully submitted that the cited references, whether taken alone or in combination, fail to teach or suggest all of the limitations of the claim 6.

35 U.S.C. § 103 Obviousness Rejections based on upon Jungreis ‘593 and Jungreis ‘940 in view of Shimamori, McCluskey and U.S. Patent No. 6,404,655 to Welches

Claims 7-10 stand rejected under 35 U.S.C. § 103(a) as being obvious over Jungreis ‘593 and Jungreis ‘940 reference in view of Shimamori, McCluskey and U.S. Patent No. 6,404,655 to Welches (hereinafter the “Welches reference”). As discussed above, the amended independent claim 6 recites a system that includes “a modular container for enclosing the plurality of individual rectifier/super capacitor devices pre-wired in parallel, the AC source, the DC source, and the first switching mechanism preassembled with sensing/control mechanism, wherein the modular container is capable of being transported to the telecommunications facility and coupled with the telecommunications equipment contained therein.” As noted, Jungreis ‘593 and Jungreis ‘940 in view of Shimamori and McCluskey do not describe the element of the modular container. It is contended that the Welches reference, as cited, fails to cure this deficiency. As such, at least by virtue of their dependency from claim 6, claims 7-11 are believed to be in condition for allowance.³

³ See 37 C.F.R. § 1.75(c) (2006).

CONCLUSION

For at least the reasons stated above, each of claims 6-11, 21, and 22 is believed to be in condition for allowance. Applicants respectfully request withdrawal of the pending rejections and allowance of the claims. If any issues remain that would prevent issuance of this application, the Examiner is urged to contact the undersigned—by telephone at 816.559.2136 or via email at btabor@shb.com (such communication via email is herein expressly granted)—to resolve the same prior to issuing a subsequent action.

It is believed that no fee is due in conjunction with the present communication. However, if this belief is in error, the Commissioner is hereby authorized to charge any amount required to Deposit Account No. 21-0765, referencing attorney docket number SPRI.130532.

Respectfully submitted,

/BENJAMIN P. TABOR/

Benjamin P. Tabor
Reg. No. 60,741

BPT/tq
SHOOK, HARDY & BACON L.L.P.
2555 Grand Blvd.
Kansas City, MO 64108-2613
816-474-6550